

THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY OF TUCSON, ARIZONA

**Minutes of the Regular Meeting
of the Board of Directors**

April 9, 2015

3:00 P.M.

at the

Ward VI Council Offices - East Conference Room

3202 East First Street

Tucson, Arizona 85719

Present:

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| Board Members | Marilyn Robinson Gary Bachman (left at 5:10 p.m.) Emily Nottingham Judy Clinco (left at 4:45 p.m.) Adam Weinstein (left at 3:40 p.m.) Larry Lucero (arrived at 3:07 p.m.) |
| Staff | Charles Lotzar, Lotzar Law Firm, PC Gary Molenda, Business Development Finance Corporation Karen Valdez, Business Development Finance Corporation |
| Guests | Nick Ross, City of Tucson Wiley Cornell, El Presidio Neighborhood Association |
| Absent | Evelia Martinez |

The Regular Meeting of the Board of Directors of The Industrial Development Authority of the City of Tucson, Arizona (the “**Authority**”) was held on **April 9, 2015**, at the Ward VI Council Office - West Conference Room, **3202 E. First Street**, Tucson, Arizona. All Authority’s Board Members and the general public were duly notified of the meeting. C. Lotzar had informed the Authority’s Board of Directors that Arizona’s Open Meeting Laws allow for members of the Authority’s Board of Directors and legal counsel to appear and participate in the meeting telephonically so long as all participants in the meeting can hear and be heard.

| ITEM | ACTION TAKEN/TO BE TAKEN |
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| 1. Call to Order The meeting was called to order by Marilyn Robinson, with a quorum present. | The meeting was called to order at 3:05 p.m. |
| 2. Request for resolution to approve the minutes of the Regular Meeting of March 12, 2015. | A MOTION was made and seconded (G. Bachman / J. Clinco) to approve the meeting minutes of the March 12, 2015 Regular Meeting, as presented. Approved 5-0. |

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| <p>3. Request for resolution to approve the payment of invoices and the notification of items to be paid on the Authority's behalf by third parties.</p> | <p>A MOTION was made and seconded (G. Bachman / A. Weinstein) to approve payment of invoices and notification of items to be paid, as presented. Approved 5-0.</p> |
| <p>4. Status report from the Liaison to City of Tucson, Arizona City Manager's Office related to:</p> <p>N. Ross provided the following updates:</p> <p>a) The City's Economic Development Prospect list</p> <p>New projects:</p> <ul style="list-style-type: none"> • Holualoa Companies - 18 unit row apartments on Stone Avenue. • Project Kind - 1000 new jobs with 40 over \$52,400 annual salary; \$10,000,000 capital investment; moving into an existing facility. • Paseo Redondo lot (behind Tucson Water building) - mixed use development - heavy on residential. <p>b) The City's use of the Tucson Community Development Loan Fund aka the HUD Section 108 Loan Program</p> <ul style="list-style-type: none"> • Waiting for reply from the HUD San Francisco office. <p>c) The City's use of HOME Funds - No report.</p> <p>d) The City's use of its 21 Economic Development tools</p> <ul style="list-style-type: none"> • Holualoa Companies - will be applying for Government Property Lease Excise Tax ("GPLET") (property tax abatement). • Gibson's Market has submitted application for GPLET. • Project Kind - Primary Jobs Incentive. <p>e) Current items of interest</p> <ul style="list-style-type: none"> • Met with Pima County regarding the Economic Development Plan to identify areas the City of Tucson ("COT") can cooperate with. | <p>No action taken.</p> |

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| <ul style="list-style-type: none"> Continuing to work on the utilities with regard to the Arizona Sonoran Corridor (area south of the Tucson International Airport). <p>Discussion ensued regarding the Platform Site. M. Robinson stated that she will be meeting with James MacAdam, City of Tucson Office of Integrated Planning, to discuss the site and clarify what portion belongs to the COT and what portion belongs to Town West Development.</p> <p>M. Robinson reported that she and G. Molenda met with Fletcher McCusker regarding Rio Nuevo property.</p> | |
| <p>5. Status report related to proposed interpretations and/or amendments to Arizona’s Industrial Development Financing Act, Allocation of Private Activity Bonding Act, or other state legislation affecting the Authority’s affairs and request for resolution related thereto.</p> <p>Mr. Lotzar stated that there is no resolution required for this item. C. Lotzar reported that The Industrial Development Authority of the City of Phoenix, Arizona (“Phoenix IDA”) did get a Bill passed; however the Bill was nowhere near as aggressive as the Phoenix IDA initially proposed. The concerns/issues about issuing taxable bonds for Projects located outside of the State of Arizona without the approval of the Governing Body or without the approval of the Arizona Attorney General were removed from the final Bill. The final Bill that was enacted:</p> <ol style="list-style-type: none"> 1) Eliminated the concept of a “Designated Area” within the definition of a “Project”, and 2) Included some grammatical corrections. <p>The jurisdiction and rights of the Authority have not been affected in any manner by the new Bill.</p> | <p>No action taken.</p> |
| <p>6. Request for resolution authorizing either renewal of the Authority’s Public Officials’ & Officers’ liability insurance or the acquisition of similar coverage from another carrier.</p> <p>C. Lotzar reviewed the fact that he had voiced a concern that the Authority did not have “Securities Acts” coverage in the renewed insurance coverage which began November 12, 2014 and only has coverage for Defense Costs related to “Securities Acts” claims, which admittedly is the Authority’s primary risk. Although there have been no claims of any nature against the Authority or threat of claims, it is prudent to obtain full coverage; since all of the Authority’s Directors and Officers serve as volunteers. Mr. Lotzar reported that the Broker was able to locate a market that will insure the Authority for up to \$2,000,000 with a \$35,000 deductible for a premium of \$21,000 which is substantially more than the prior premium of \$6,800. Mr. Lotzar stated that this a business decision</p> | <p>A MOTION was made and seconded (G. Bachman / L. Lucero) to approve offer of coverage to begin July 1, 2015, as discussed. Approved 6-0.</p> |

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| <p>that needs to be made. The new premium with full coverage could begin with the new fiscal year on July 1, 2015. The current premium would need to be terminated and a refund of pro-rated premium would be received however, there will also be a 15% penalty for early termination.</p> <p>Discussion ensued and it was the consensus of the Authority to accept the offer for full coverage to begin on July 1, 2015 acknowledging that there will be a 15% penalty for early termination of the current policy.</p> | |
| <p>7. Staff Reports:</p> <p>K. Valdez provided status on the following:</p> <p>Monthly Staff Report for the month ending March 31, 2015</p> <p>a. General Operations of the Authority:</p> <ul style="list-style-type: none"> i. Parking Lot Financial Statements prepared by Pueblo Parking Systems, LLC (“PPS”) - Reviewed reports as prepared and submitted by PPS. ii. Bond Borrower’s payment of Administrative Fees - as of February 28, 2015 all fees are current. iii. Cash Management - Reviewed interest bearing and non-interest bearing accounts; reviewed account balances less existing commitments and recommended reserves for an estimate of funds available. iv. Loan Servicing - v. Loan Origination - Initial inquiry received from Native Seeds/SEARCH - Borrower was able to obtain an approval for financing with acceptable terms from National Bank of Arizona. vi. 450 N. Main Street - insurance coverage renewed - policy April 1, 2015 to March 31, 2016. <p>b. Updates:</p> <ul style="list-style-type: none"> i. Federal legislation ii. Arizona legislation <p>c. Outstanding Single Family Programs:</p> <ul style="list-style-type: none"> i. Mortgage Revenue Programs that have completed the Origination Period: | <p>No action taken.</p> |

A. Series 2006 (Joint) - \$30,475,000- 1st Mortgage Loan Interest Rate 5.97% - Final Redemption of Senior Bonds July 28, 2014 - CUSIP No. 89873QAB5 Subordinate (approximately \$149,000 - 7% 2nd Mortgage Loans are tied to the Subordinate Bonds of approximately \$820,000) .

B. Series 2007A (Joint) - \$23,400,000- 1st Mortgage Loan Interest Rate 5.69% - Final Redemption of Senior Bonds July 28, 2014 CUSIP No. 89873QAE9 Subordinate (approximately \$168,000 - 7% 2nd Mortgage Loans are tied to Subordinate Bonds of approximately \$135,000).

C. Series 2008 (Joint) - \$30,000,000- Mortgage Loan Interest Rate 5.89% - Term Bonds CUSIP Nos. 898700FH7, 898700FJ3, 898700FK0 and PAC Bonds CUSIP No. 898700FL8 (approximately \$7,565,000 outstanding).

D. Restructuring Opportunities and past results.

ii. Mortgage Credit Certificate Program that is in the Origination Period – 2014 in the amount of \$5,000,000 formed on January 2, 2014 - Origination Period expired December 31, 2016.

K. Valdez reviewed the **2014** MCC Summary Report noting **17** MCCs issued to date, with **5** MCCs pending.

iii. \$15,000,000 The Industrial Development Authority of The County of Pima and The Industrial Development Authority of The City of Tucson, Arizona Revolving Taxable Single Family Mortgage Loan Program of 2012 (Pima Tucson Homebuyers Solution) – Program commenced on December 17, 2012 and unless extended expires on December 31, 2016 - over \$111,330,000 in mortgage-backed securities sold with over \$4,441,000 of down payment assistance granted to homebuyers.

K. Valdez reviewed the PTHS monthly update as prepared by George K. Baum & Company. Loans to

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| <p>date: 1,301 and Loan Amount to date: \$157,832,840.74.</p> <p>Mr. Lotzar stated that he received a packet of information, including a Non-Disclosure Agreement (“NDA”) from Genworth Curtailment Settlement regarding another possible settlement involving 3 other bond issues, although Mr. Lotzar is uncertain as to which bond issues/years the potential settlement pertains to. Mr. Lotzar stated that he is assuming this will be similar to the other Genworth Settlements; “found money”, but in a very small amount. The deadline to submit the NDA is April 30, 2015; Mr. Lotzar said he will execute the NDA and submit it on behalf of the Authority and The Industrial Development Authority of the County of Pima.</p> | |
| <p>8. Status Report related to development of the Request for Qualifications/Request for Proposal (“RFQ/RFP”) or other process related to the potential development of Block 174 and/or Block 175 and request for resolution for any actions related thereto. Pursuant to Arizona Revised Statutes Section 38-431.03(A)(1)(3) and/or (4), the Board may vote to recess and meet in executive session for the purpose of discussion or consultation with and to provide direction to the Board’s legal counsel in connection with this item. Any action taken by the Board regarding this matter will be taken in open meeting session (either at this meeting or at a later date) after the adjournment of the executive session.</p> <p>Weinstein stated that in order to avoid any appearance of impropriety, he will recuse himself from discussions related to the development of the RFQ/RFP or any other process related to the potential development of Block 174 and/or Block 175.</p> <p>Mr. Lotzar stated that he has advised Mr. Weinstein that it would be in his best interest and the Authority’s best interest, if Mr. Weinstein were to physically leave the room so that there would be no doubt about his impact on the Authority’s deliberations and actions.</p> <p>M. Robinson stated that notes from the March 25, 2015 Listening Session have been sent out for review.</p> <p>G. Bachman stated that it should be clear on whose comments/positions are whose and it should not appear, in the context of the discussion that there is substantial disagreement amongst any of the stakeholders.</p> <p>M. Robinson stated that the notes specify “comments from the audience” and also notes who made the comments if they came from a City Official or any other “Public Official”. It was also noted that notes taken by E. Nottingham were incorporated into the meeting notes.</p> <p>M. Robinson stated that the City of Tucson (the “COT”) provided mailing labels for property owners and business owners within a 500 foot radius of</p> | <p>No action taken</p> |

Block 175 all of whom were sent an invitation to the “Listening Sessions” either via email or regular.

At the **March 25, 2015** Listening Session, a request that renters within the **500 foot** radius should also receive information. In response, the COT has provided a mailing list of all principal addresses in the El Presidio Neighborhood (“**EPN**”), however it does not specify owners vs renters. Copies of the invitation to the **April 14, 2015** Listening Session have been made and will be provided to El Presidio Neighborhood Association (“**EPNA**”) to be distributed door to door.

G. Molenda discussed the draft RFP stating that the “Listening Session” meeting notes will be added as an exhibit. Mr. Molenda noted that comments received at the **March 25, 2015** Listening Session spurred some additional questions (the “**Vision Cast**”):

1. What makes the El Presidio Neighborhood a great place to live and work?
2. What are the top **3** things that characterize the El Presidio Neighborhood?
3. How could the development of **Block 175** support, complement or enhance the El Presidio Neighborhood and downtown Tucson?

This Vision Cast will be made available for comments/input at the **April 14, 2015** Listening Session.

Wiley Cornell will review these questions with the EPNA at the EPNA’s upcoming meeting so that the EPNA can begin to formulate responses.

G. Molenda reviewed the following schedule (subject to change):

- **2nd** predevelopment “Listening Session” is scheduled for **Tuesday, April 14, 2015**.
- **3** week comment period.
- Legal review to begin **May 5, 2015**.
- Review to determine whether or not to proceed will occur at the next Regular Meeting of the Authority.
- Advertising - suggest **90** days for prospective developers to respond.
- Legal notice - publish notice.

Discussed other types of outreach for the distribution of the RFQ/RFP:

- Obtain lists from the COT, Downtown Tucson Partnership (“**DTP**”), and Tucson Regional Economic Opportunities

(“**TREO**”)

- Phoenix market.
- Urban Land Institute (“**ULI**”).
- Arizona Multi-Housing Association.
- Arizona Housing Alliance.
- Architecture firms.
- Include RFP, power point, and meeting notes on the Authority’s website

Mr. Molenda reviewed the revised draft RFP noting that the original template used as a baseline is from a government entity. It was noted that there were a lot of blanks and holes in the document that have been filled in since the last review; changes are highlighted for ease of viewing (although tract changes is available for anyone who would like to review it).

Sections of the document were reviewed and included:

- Encourage affordable housing component and mixed income.
- Delete the words “or redevelopment”.
- Include culture and arts as a potential use.

C. Lotzar stated that he has not reviewed the document at length as he has not been directed to do so. Mr. Lotzar stated that he views the RFP as creating a contract. **Block 175** is the Authority’s largest asset and is concerned given his lack of involvement in this process; the document requires more review and noted his largest concern is that the Authority is inadvertently creating contract rights.

E. Nottingham stated that it is her assumption that the form of the Development Agreement would need to be prepared with great care. The document, as it reads, is not something that would be turned into a Development Agreement and has not been presented that way, nor is it the intent of the Authority to present it that way. It is understood how difficult it is to write a Development Agreement that ensures performance along the lines of what is proposed. E. Nottingham also stated that it would be premature to draft a Development Agreement when the business terms and relationship are unknown. It is assumed that the terms/relationship would develop as a response to Phase I in preparation for Phase II.

Mr. Lotzar stated that he just wants the Authority to be cautionary as the biggest case of his career is a **\$20,000,000** lawsuit that was a verdict twice in the United States District Court for the Southern District of New York on a Memorandum of Understanding that expressly said it was non-binding and could be terminated; and it was terminated within **90 to 120 days**, without a single draft of a binding contract. Therefore, what is intended and what is said is not necessarily going to carry the day. The Authority is entering into a different environment that is accustom to dealing with,

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| <p>namely developers who litigate over property rights.</p> <p>M. Robinson stated that Mr. Molenda put together a relatively standard RFQ/RFP, 2 stage process, and at the point where input has been received and incorporated, the document would then be reviewed for legal protections.</p> <p>E Nottingham requested that language be included in the document noting that the document is a draft for “Discussion Purposes Only”.</p> <p>Mr. Lotzar stated that “Discussion Draft” should be noted on the document.</p> <p>M. Robinson asks that the Board member “listen” at the April 14, 2015 meeting rather than “discuss”. M. Robinson stated that the audience will have a few weeks to provide comments. Due to vacation schedules the summer meeting dates were discussed. It was the consensus to cancel the May 14, 2015 Regular Meeting.</p> <p>Discussion ensued regarding a requirement for proposers to register. Any questions will be responded to all registered proposers. It was noted that it should be made clear that the Authority is not and will not be involved with granting assistance to the developer or the development.</p> <p>With regard to joint venture possibilities, Mr. Lotzar stated that there is a legal requirement that he will need to look into. The Authority can own properties, but the Authority cannot operate them.</p> <p>Discussion ensued regarding:</p> <ul style="list-style-type: none"> ➤ Scoring - evaluation criteria for Phase I & Phase II. ➤ Uploading info to website. ➤ Concepts from Phase I will carry forward to Phase II. ➤ Committee review - closed process. ➤ Confidentiality of submittals. ➤ Update project description in phase II? Not required. ➤ No scoring carry forward to Phase II. | |
| <p>9. President’s Report: Brief Summary of current events, including items brought to the President’s attention or matters that required handling by the President since the last meeting, including:</p> <ul style="list-style-type: none"> • The assembly of the matching funds related to the Christopher Franklin Carroll Park Project. | <p>No action taken.</p> |

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| <ul style="list-style-type: none"> • Authority's 2015 summer meeting schedule | |
| 10. Call to the audience There was no one in the audience who wished to address the Authority. | No action taken. |
| 11. Adjourn | Quorum was lost at 5:10 p.m. - meeting adjourned. |

Submitted by:

Approved by:

Karen J. Valdez
 Business Development Finance Corporation

Marilyn Robinson, President
The Industrial Development Authority of the
City of Tucson, Arizona